



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Defense Logistics Agency -- Meals at Seminars

File: B-224995

Date: December 11, 1987

DIGEST

GAO is unable to determine, based on the available record, whether Department of Defense civilian employees and military officers may be reimbursed for meals provided as part of a contractor's seminar held at their permanent duty station. Reimbursement of meal expenses is permitted under 5 U.S.C. § 4110 (1982) under these circumstances when the meals were incidental to a formal meeting or conference that extended outside the meal session; the attendance by the employee at the meals was necessary to full participation in the business of the meeting; and the employee was not free to partake of his meals elsewhere without being absent from essential business. Moreover, attendance at the meals alone would not be sufficient to justify reimbursement even if the other criteria were met. From the record supplied with the submission, it is impossible for this Office to decide whether the employees attended the full sessions or only the meals for which they claim reimbursement. Accordingly, GAO advises DLA that payment may be made in the case of each employee only if there is substantial evidence that the meals in question were incidental to day-long sessions and the employee claiming reimbursement participated in the entire session on any day for which he submitted a claim. If there is insufficient evidence that those conditions have been met, the claim should be rejected.

DECISION

This decision is in response to a request from Mr. Peter H. Tovar, Chief of the Accounting and Finance Division, Office of Comptroller, Defense Logistics Agency (DLA). Mr. Tovar requests the decision of this Office regarding the propriety of reimbursing six civilian employees and one military

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officer for meal expenses they incurred while attending a contractor's seminar at Defense Contract Administration Services Management Area Atlanta (DCASMA-Atl). We conclude that there is nothing in the record available to this Office which indicates that the criteria for reimbursement have been met in the instant case.

BACKGROUND

According to the DLA submission, DCASMA-Atl held a 4-day "Contractor's Seminar" at an Atlanta hotel during June 1986. Six civilian employees and one military officer assigned to DCASMA-Atl were assigned to attend the seminar, which took place within the corporate limits of their permanent duty station. The Commander of DCASMA-Atl determined that attendance by all seven employees was "mandatory in order to fully participate in the meeting and respond to questions from contractors." Lunches were served at the workshop each day, "in order to accommodate the needs of the seminar," and the DLA personnel were not free to obtain their meals elsewhere. No information was provided as to whether all seven employees did, in fact, attend all four day-long seminars. However, from the vouchers submitted, four employees were present for all four lunches, one employee was present for two lunches, and the remaining two received one lunch each.

The claim of each of the seven personnel for reimbursement of his or her lunchtime meal expenses was paid. Lt. Col. K. T. Kincaid, Accounting and Finance Officer at DCASMA-Atl, has made the following findings:

"[T]he meals in question (1) were incidental to the workshop, (2) attendance at the meals was necessary for full participation in the meeting, and (3) the attendees were not free to take their meals elsewhere. . . ."

ANALYSIS

The general rule is that an employee may not be paid per diem or actual subsistence expenses at his official duty station, because those expenses are personal to the employee. 53 Comp. Gen. 457, 459 (1974); 64 Comp. Gen. 406 (1985); 49 Comp. Gen. 453 (1970). For example, in B-198882, March 25, 1981, we held that an Internal Revenue Service employee who attended monthly luncheon meetings with local law enforcement officials could not be reimbursed for his luncheon expenses, notwithstanding the benefit to the government from the employee's attendance at the meetings, because the meetings were held at the employee's official duty station. This rule has been applied without regard to

unusual or difficult working conditions. 42 Comp. Gen. 149 (1962) (reimbursement of subsistence expenses of postal officials required to remain on duty well beyond regular duty hours under difficult conditions denied); B-194499, October 31, 1979 (reimbursement denied to Army officers who incurred expenses as a consequence of standing extra watches at the Pentagon during a snowstorm).

There have been, however, some exceptions to the general rule when specific authority for reimbursement could be found. Employees may be reimbursed for meals at their official duty station when those meals are included at no extra charge in a registration fee for a meeting or training session and represent an incidental part of the meeting or training. Specific authority is also provided for such reimbursement in section 4110 of Title 5, United States Code, which makes appropriations available for "expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made." 5 U.S.C. § 4110 (1982).

However, in the latter case, where meals are not included in a registration fee and a separate charge is made, reimbursement is permitted if three criteria are met. First, the meals must be incidental to the meeting or conference. Second, the attendance by the employee at the meals must be necessary to full participation in the business of the meeting. Third, the employee must not be free to partake of his meals elsewhere without being absent from essential formal discussions, lectures or speeches. B-198471, May 1, 1980. Before applying the three-part test, however, there is a prerequisite. "[a] meal must be part of a formal meeting or conference that includes not only functions such as speeches or business carried out during a seating at a meal but also includes substantial functions that take place separate from the meal." 64 Comp. Gen. 406, 408 (1985). See, e.g., 65 Comp. Gen. 508, 510 (1986) (reimbursement denied when there was "no evidence that any substantial functions occurred separate from the meal").

We are unable to conclude, based on the record available to us, that all the criteria listed above have been met in the case at hand. It is clear that attendance at a meal alone, no matter how relevant the meal-time programs may have been, is not sufficient to justify payment of subsistence expenses at an employee's duty station. We cannot determine, from the information supplied with the submission, whether the employees concerned participated only at the luncheon meetings or whether they attended day-long seminars which included noontime meals. Accordingly, we advise DLA that payment may be made in the case of each employee only if there is substantial evidence that the meals in question

were incidental to day-long sessions and the employee claiming reimbursement participated in the entire session. If there is insufficient evidence that those conditions have been met for that day, the claim should be rejected.

for 
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